

REMARKS

Examiner's Rejections and Objections

The subject patent application is a continuation of U.S. Patent Application Serial No. 09/755,222 ("the '222 application") which was filed on January 5, 2001. The claims presented herein were drafted to be virtually identical to the last amended claims in the prosecution of the '222 application, and were further amended to overcome the prior art cited in the last Office Action of that prosecution.

In the last Office Action received during the prosecution of the '222 application, the Examiner rejected Claims 1-3, 8-11, 14 and 16 under 35 U.S.C. §102(b) as being anticipated by the Duginske et al. reference ("Duginske"). Lastly, the Examiner rejected Claims 7 and 15 under 35 U.S.C. §103(a) as being unpatentable over Duginske in view of the Perkins reference.

As will be demonstrated below, it is respectfully submitted that the presently pending claims, and more particularly new independent Claims 17 and 21, incorporate certain features which are believed to be allowable over the relevant prior art cited in the earlier '222 prosecution.

New Independent Claims 17 and 21

Applicant has added independent Claims 17 and 21 which are believed to incorporate distinguishable features so as to be

novel over the prior art of relevance cited thereagainst, namely, Duginske.

Applicant's Present Invention

New independent Claims 17 and 21 recite a band saw blade stabilizer for stabilizing a moving band saw blade of a band saw appliance by limiting the lateral motion of such saw blade. Among other unique features, the band saw blade stabilizer of the present invention features "a single housing having a cut-out sized and configured to allow the moving band saw blade to pass therethrough." Such stabilizer of the present invention additionally features "two laterally adjustable opposing guide structures disposed within the single housing." Importantly, however, the two guide structures "form a passage, the passage being in substantial alignment with the cut-out of the single housing . . . such that the moving band saw blade can pass within the passage."

As will be demonstrated below, Applicant feels that such recitation of elements, along with other enumerated elements of new base Claims 17 and 21, will be sufficient to patentably distinguish the present invention over the cited prior art of relevance, namely, Duginske.

2. The Standard for 35 U.S.C. §102 Rejection

As is well-known, anticipation cannot be established unless a single prior art reference discloses each and every element of

the claimed invention. Structural Rubber Co. v. Park Rubber Co., 749 F.2d 707, 223 U.S.P.Q. 1264 (Fed. Cir. 1984). Further, for anticipation to apply, all of the claimed elements must be found in exactly the same situation and united in the same way to perform the identical function in a single unit of the prior art. (See, e.g., Studiengesellschaft Kohle m.b.H. v. Dart Industries, 762 F.2d 724, 726, 220 U.S.P.Q. 841, 842 (Fed. Cir. 1984)). Even further, any inherency which is applied in the context of anticipation "does not embrace probabilities or possibilities." Trintec Industries Inc. v. Top-U.S.A. Corp., 63 U.S.P.Q.2d 1597, 1601 (Fed. Cir. 2002) (holding of no express or inherent anticipation in a scenario where a catalog taught printing methods but not "creating" anything in a computer as the latter was not disclosed therein). As will be demonstrated below, Duginske fails to anticipate the present invention in view of such legal standard.

3. Duginske In View of the Present Invention

Even though the Duginske reference is generally directed toward guide blocks for a band saw blade, it is not understood to disclose the present invention's specific combination of elements as recited in new independent Claims 17 and 21, and more particularly fails to teach or suggest two laterally adjustable opposing guide structures disposed completely within a single housing collectively forming a passage which is in

substantial alignment with the cut-out of such single housing so that a moving band saw blade may pass therethrough.

With respect to such feature emphasized in new independent Claims 17 and 21, Applicant believes that the band saw system of Duginske fails to disclose the concept of specifically providing two laterally adjustable opposing guide structures completely disposed within a single housing which collectively form a passage that is in substantial alignment with the cut-out of such single housing so that a moving band saw blade may pass therethrough. In fact, Applicant respectfully submits that Duginske is silent as to such concept.

Rather, as understood, Duginske discloses a guide holder which "is a yoke-shaped element including a central shaft 42 and spaced arms 43 and 44." (Column 3, lines 53-55). Duginske further discloses that "guide block 46 is carried in bore 45 of arm 43 and guide block 47 is carried in bore 45 of arm 44." (Column 3, lines 56-58). The end faces of the guide blocks extend out of their respective bores, and thus far beyond the edges of their respective arms so that "a bandsaw blade can be at right angles to the axis of the block . . . or inclined to the axis of the block." (Column 4, lines 46-48; See, also, Figure 3). In this respect, Applicant respectfully submits that Duginske fails to disclose the emphasized features of new independent Claims 17 and 21, namely, (1) that the two laterally

adjustable opposing guide structures are completely disposed within a single housing, and (2) that the two laterally adjustable opposing guide structures collectively form a passage which is in substantial alignment with the cut-out formed by such single housing. Hence, Duginske is believed not to teach, suggest, or even imply the present invention as set forth in new independent Claims 17 and 21.

Applicant respectfully submits that the new base Claims 17 and 21 are thus allowable. Insofar as the new base Claims 17 and 21 are believed to be allowable, their dependent claims are also believed to be allowable as they are further limitations of their respective independent claims.

Request for Allowance

On the basis of the foregoing, Applicant respectfully submits that all the stated grounds of rejections have been overcome, and that Claims 17-24 are in condition for allowance. An early Notice of Allowance is therefore respectfully requested.

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Should the Examiner have any suggestions for expediting allowance of the application, the Examiner is invited to contact Applicant's representative at the telephone number listed below.

Respectfully submitted,

Date:

1/26/04

By:



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